

**IN THE UNITED STATES DISTRICT COURT  
FOR THE WESTERN DISTRICT OF PENNSYLVANIA**

LEROY FEARS, )  
                    )  
Plaintiff,       )  
                    )  
v.                ) Civil Action No. 10-315  
                    ) Judge McVerry  
                    ) Magistrate Judge Bissoon  
PENNSYLVANIA DEPARTMENT OF )  
CORRECTIONS, *et al.*,     )  
                    )  
Defendant.       )

**MEMORANDUM ORDER**

Leroy Fears's complaint pursuant to 42 U.S.C. § 1983 was removed to this Court from the Court of Common Pleas of Allegheny County, on March 9, 2010, and was referred to United States Magistrate Judge Cathy Bissoon for pretrial proceedings in accordance with the Magistrates Act, 28 U.S.C. § 636(b)(1), and Rules 72.C and 72.D of the Local Rules for Magistrates.

The Magistrate Judge's Report and Recommendation, filed on May 4, 2010, recommended that Defendant's Motion to Dismiss (Doc. 5) be granted without prejudice to Plaintiff's right to amend his Complaint, and that Plaintiff's "Motion for the Court to Assume Jurisdiction over Judgment Upon Default Request" (Doc. 20) be denied. Plaintiff filed timely objections (Doc. 22) and also filed a Motion for Leave to File Amended Complaint (Doc. 23).

After de novo review of the pleadings and documents in the case, together with the Report and Recommendation and the objections thereto, the following order is entered:

AND NOW, this 19th day of May, 2010,

IT IS HEREBY ORDERED that the Motion to Dismiss (Doc. 5) is GRANTED without prejudice to Plaintiff's right to file an Amended Complaint.

IT IS FURTHER ORDERED that Plaintiff's "Motion for the Court to Assume Jurisdiction over Judgment Upon Default Request" (Doc. 20) is DENIED.

IT IS FURTHER ORDERED that Plaintiff's Motion for Leave to File Amended Complaint (Doc. 23) is GRANTED. Plaintiff has not, however, attached a proposed Amended Complaint to his motion. Therefore, Plaintiff shall file an Amended Complaint on or before June 4, 2010, or this case will be dismissed.

The Report and Recommendation of Magistrate Judge Bissoon (Doc. 21), dated May 4, 2010, is adopted as the opinion of the court.

s/Terrence F. McVerry  
Terrence F. McVerry  
United States District Court Judge

**Cc:**  
**LEROY FEARS**  
CQ-7760  
S.C.I. at Greene  
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Waynesburg, PA 15370